IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

W.P.NO.160 OF 2005

All India Petroleum
Workers Union Mumbai ..Petitioners

Vs.

Hindustan Petroleum
Corporation and Anr. ..Respondents

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Mr.N.M.Ganguli Advocate for Petitioners
Mr.S.K.Talsania Senior Counsel with
Mr.Mahesh Londhe i/b Sanjay Udeshi & Co.
for Respondents

...

**CORAM: F.I.REBELLO AND**
**SMT.V.K.TAHILRAMANI,JJ.**
**DATE : JUNE 6, 2006**

**P.C.**

1. Rule. Rule made forthwith.

2. The petitioners herein had taken the matter in Conciliation. The Conciliation Officer submitted its failure report to the appropriate Government. It appears that earlier the petitioners filed petition before this Court in the matter of transfer of employees. That petition came to be dismissed by the learned Division Bench of this

Court on the ground that transfer is an exigency of service. Learned counsel for the petitioners states that a review petition is pending.

3. In the meantime, the appropriate Government based on the failure report, has refused to make a reference under Section 12 and accordingly, communicated the decision. It is this order which is the subject matter of the present petition.

4. From the record, it appears that several posts have become surplus and consequent thereupon, the surplus employees had to be redeployed. It is on this account of redeployment of the employees, the petitioners had to post the employees at places where posts existed. The decision of the appropriate Government under Section 12(5) of the Industrial Disputes Act, is an administrative order which normally, this Court would not interfere with, unless the appropriate Government has not considered the well known tests namely that it cannot decide whether the dispute is an industrial dispute or it exits or not and or action is arbitrary or malafide and the like. In the instant case, the very issue was in issue before the Bench

of this Court which held that transfer was an administrative exigency.

5. Apart from that, the words "transfer" and "re-deployment" as known in service/industrial jurisprudence, are too different concepts. A transfer is one from one post to another post, whereas re-deployment is of surplus employees from one post to another post which becomes available which may not be of the same rank.

6. Considering the above, in our opinion, this would not be a fit case for this Court to exercise its extra ordinary writ jurisdiction. Petition is rejected. Rule discharged.

[ F.I.REBELLO, J.]

[ SMT.V.K.TAHILRAMANI,J.]